

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.MC.No. 3088 of 2007()

CC.69/2007 of JUDL.MAGISTRATE OF FIRST CLASS, KAYAMKULAM

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CRIME NO. 69/2007 OF KAYAMKULAM POLICE STATION

PETITIONER: ACCUSED

SAMAD,
THAYYIL VEEDU, KEERIKADU, THEKKUM MURI,
KEERIKAD VILLAGE.

BY ADV. SRI.P.SREEKUMAR
SRI.K.S.MANU (PUNUKKONNOOR)

RESPONDENTS: COMPLAINANT

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1. SUB INSPECTOR OF POLICE,
KAYAMKULAM.
 2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 09/10/2007, THE COURT ON 10/10/2007 PASSED THE
FOLLOWING:

R.BASANT, J
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Crl.M.C. No. 3088 Of 2007
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Dated this the 10th day of October, 2007

ORDER

The petitioner faces indictment in a prosecution for the offences punishable under section 324 IPC. Altogether there were three accused persons. The petitioner was the 2nd accused. The other two accused who had faced trial, were found not guilty and were acquitted. The petitioner was not available for trial. The case against them was split up and re-filed. Consequent to his non-appearance coercive processes have been initiated against the petitioner by the learned Magistrate. The warrant of arrest issued by the learned Magistrate is chasing him now. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioner earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances, appropriate directions may be issued under section 482 Cr.P.C, prays the learned counsel for the petitioner.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which

they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

4. The learned counsel for the petitioner further submits that the petitioner is employed abroad and the learned Magistrate may hence be directed to dispose of the case expeditiously. It is for the petitioner to appear before the learned Magistrate and make that request. The learned Magistrate, needless to say, must consider such request and pass orders expeditiously.

(R.BASANT, JUDGE)

sj

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P.A.TO JUDGE